



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/534,555 | 06/27/2005 | Maurice Baker | | 7108 |
| 60333 | 7590 | 04/17/2008 | EXAMINER | |
| EDWIN D. SCHINDLER FIVE HIRSCH AVENUE P.O. BOX 966 CORAM, NY 11727-0966 | | | GORDON, STEPHEN T | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3612 | | |
| | | MAIL DATE | | DELIVERY MODE |
| | | 04/17/2008 | | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/534,555 | BAKER, MAURICE | |
| | Examiner | Art Unit | |
| | Stephen Gordon | 3612 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 March 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 13-29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 25-29 is/are allowed.
 6) Claim(s) 13-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10 May 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Claims 13-24, as newly amended/presented are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 as newly amended, “the freight container” in line 8 lacks clear antecedent basis as freight containers per se are previously recited in line 1 and line 4. Additionally, “said plurality of sides” in line 9 lacks clear antecedent basis as sides per se are previously recited at lines 3 and 6.

Claim 15, the term “the freight container” used throughout the claim (4 places total) lacks clear antecedent basis – note discussion regarding claim 13 above. Note similar confusing terms in claim 18 – line 4, claim 19 – line 5, claim 20 – line 2, claim 21 – line 5, and claim 22 – line 7.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13-14, 18, 21, and 24, as best understood and as newly amended, are rejected under 35 U.S.C. 102(b) as being anticipated by Seo ‘365.

Note pallet (figure 1 embodiment), locomotion means/lower rollers, side locking means (including the side rollers), and locking means (20, 20') at leading and trailing edges as newly broadly claimed.

Regarding the newly added language to claim 13, the locking means is capable of engagement to a container wall or an adjacent pallet as broadly claimed and as best understood. Note also, in as much as a container or adjacent pallet per se are not positively recited elements of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight. Finally, applicant's amendments include language that the locking means is "for preventing movement in mutually perpendicular directions in a horizontal plane". The device of Seo is capable of use for preventing movement as broadly claimed and is deemed fairly readable on the new language. For example, a pallet of Seo could be locked via element 20 to an adjacent pallet that is nailed to the floor of the carrier such that movement of the pallet is precluded in a horizontal direction. The side roller locking elements would serve to preclude movement in a perpendicular horizontal direction. Again noting, in as much as the adjacent pallet or container are not positively recited elements of the instant claimed combination, the functional language relating thereto is given little patentable weight.

Claim 14, note rollers 7.

Claim 18, note the side rollers define part of the locking means and are positioned as broadly claimed and as best understood.

Claim 21, the other element 20 or 20' on the trailing edge of the pallet reads on the locking device. Note extensible member 43+ is movable into close abutment as broadly claimed and as best understood. Note also, in as much as the rear door per se is not a positively recited element of the instant claimed combination, the functional /positional language relating thereto is given little patentable weight.

. Claim 24, the device is configured as broadly claimed and as best understood.

4. Claims 15-17, 19-20, and 22-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Claims 25-29 are allowed.

6. Applicant's arguments filed 3-3-08 have been fully considered but they are not persuasive.

Regarding applicant's comments directed toward the Seo reference, the following should be noted. As discussed above with regard to the newly added language to claim 13, the locking means is capable of engagement to a container wall or an adjacent pallet as broadly claimed and as best understood. Note also, in as much as a container or adjacent pallet *per se* are not positively recited elements of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight. Finally, applicant's amendments include language that the locking means is "for preventing movement in mutually perpendicular directions in a horizontal plane". The device of Seo is capable of use for preventing movement as broadly claimed and is deemed fairly readable on the new language. For example, a pallet of Seo could be locked via element 20 to an adjacent pallet that is nailed to the floor of the carrier such that movement of the pallet is precluded in a horizontal direction. The side roller locking elements would serve to preclude movement in a perpendicular horizontal direction. Again noting, in as much as the adjacent pallet or container are not positively recited elements of the

instant claimed combination, the functional language relating thereto is given little patentable weight.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Gordon/
Primary Examiner
Art Unit 3612

stg